

ASSEMBLY BILL

No. 3

Introduced by Assembly Member Benoit
(Coauthors: Assembly Members Cogdill and Sharon Runner)
(Coauthor: Senator Harman)

August 8, 2006

An act to add Section 5028.5 to the Penal Code, relating to undocumented criminal aliens.

LEGISLATIVE COUNSEL'S DIGEST

AB 3, as introduced, Benoit. Undocumented Criminal Aliens: costs of incarceration.

Existing federal law requires the federal government to compensate a state for the costs of incarcerating undocumented criminal illegal aliens, or to take the undocumented criminal alien into federal custody, as specified.

This bill would require the Secretary of the Department of Corrections and Rehabilitation to demand in writing that the United States Attorney General take federal custody of any undocumented criminal alien incarcerated in California's correctional system and, if the federal government does not comply with the demand, then the secretary shall annually bill the federal government for the costs of incarcerating undocumented criminal aliens.

This bill would also require the California Attorney General to utilize all available legal resources to obtain reimbursement from the federal government or have the federal government take the incarcerated undocumented criminal aliens into federal custody if the state is not reimbursed or the undocumented criminal aliens are not taken into federal custody after the demand or bill is presented.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5028.5 is added to the Penal Code, to
2 read:
3 5028.5. (a) The Secretary of the Department of Corrections
4 and Rehabilitation shall demand, in writing, that the United
5 States Attorney General take into federal custody any
6 undocumented criminal alien incarcerated within California's
7 correctional system.
8 (b) In the event the federal government does not take any
9 undocumented criminal alien into federal custody after a demand
10 is made pursuant to subdivision (a), the secretary shall annually
11 bill the federal government, in writing, for the full cost of
12 incarcerating any undocumented criminal alien.
13 (c) In the event that the federal government does not make the
14 payment demanded in subdivision (b), and the federal
15 government does not take an incarcerated undocumented
16 criminal alien into the custody of the federal government and
17 incarcerate the alien, then the California Attorney General shall
18 utilize all available legal resources to obtain compliance with the
19 written bill and demand contained in this section.

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